

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JUSTIN GARDNER,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**8:17CV255**

**MEMORANDUM AND ORDER**

JUSTIN GARDNER,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**8:17CV389**

**MEMORANDUM AND ORDER**

JUSTIN GARDNER,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**8:17CV390**

**MEMORANDUM AND ORDER**

JUSTIN GARDNER,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**8:18CV241**

**MEMORANDUM AND ORDER**

JUSTIN GARDNER,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**8:18CV557**

**MEMORANDUM AND ORDER**

The above closed habeas cases are before the court on correspondence from Petitioner Justin Gardner filed on March 23, 2022, which the court construes as a motion. Petitioner states he has been unable to file Notices of Appeal in these cases regarding “some proceed In Forma Pauperis (I.F.P.) orders [that were] denied . . . due to out of the Petitioner [sic] control by the Nebraska Department of Correctional Services” and asks the court to grant him “some relief due to this situation that is out of the petitioner [sic] control.”

On February 25, 2022, the court denied Petitioner leave to proceed IFP on appeal in all of the above cases. All of these cases are currently pending on appeal in the Eighth Circuit Court of Appeals and Petitioner has been ordered to either pay the appellate filing fee or file a motion to proceed IFP in the Eighth Circuit. Because these cases are on appeal, the court does not have jurisdiction to grant

Petitioner any relief, nor would the court grant Petitioner any relief as Petitioner cannot appeal this court's denial of leave to proceed IFP on appeal. Such orders are not appealable, and any purported appeal of those orders would be frivolous. *See* Fed. R. App. P. 24(a)(5) ("A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice [of the district court's denial]."). Accordingly,

IT IS ORDERED that: Petitioner's motion for relief in all of the above cases (Filing 55, Case No. 8:17CV255; Filing 35, Case No. 8:17CV389; Filing 47, Case No. 8:17CV390; Filing 49, Case No. 8:18CV241; Filing 30, Case No. 8:18CV557) is denied.

Dated this 31st day of March, 2022.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge